S.B.CIVIL WRIT PETITION NO.585/1995

Rahtriya Bijli Karamchari Sangh, Jodhpur
v.
Raj.State Electricity Board, Jaipur & Ors.

DATE OF ORDER :: 18th January, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.R.Singhvi, for the petitioner.
Mr. Ravi Bhansali, for the respondents.

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This petition for writ is preferred by a trade union registered under the Trade Union Act, 1926 espousing cause of its members to whom an increment was given by the respondents by treating them in continuous employment for a period of 10 years.

By the orders impugned Anx.15 to Anx.26 the respondents withdrew the increment granted and also ordered for effecting recovery of the amount said to be paid as a consequent to grant of increment as above from the pay of members of the petitioner union in instalments. It is also stated in the petition for writ that beside the persons to whom the orders Anx.15 to Anx.26 relates one workman namely Nagaram also faced same kind of order for withdrawal of increment already granted and for recovery of the amount from his pay.

A reply to the writ petition is filed on behalf of the respondents stating therein that the increment was erroneously granted to the members of

the petitioner union whose names are given in schedule "A" and, therefore, the same was rightly withdrawn under the orders concerned. It is also stated that the recovery is ordered to be made as the amount was illegally paid to the members of the petitioner union.

It is the position admitted that before withdrawing the increment granted to the members of the petitioner union and before effecting recovery from their pay no notice was given to them. By grant of an increment a valuable civil right accrued in favour of the members of the petitioner union whose names are given in schedule "A" appended with the writ petition and that could not be withdrawn without giving them an opportunity of hearing.

In view of it, the order withdrawing the increment granted to the members of the petitioner union, whose names are given in schedule "A" is illegal. The same, therefore, deserves to be quashed. It is also relevant to note that the amount paid to the members of the petitioner union, whose names are given in schedule "A", was given by the respondents at their own under an order that was treated valid at the relevant point. The increment was not given to the members of the petitioner union whose names are given in schedule "A" on basis of any misrepresentation made by them. In view of it the recovery sought to be made is not at all permissible.

Accordingly, this petition for writ is allowed. The orders Anx.3 to Anx.26 placed on record and also the similar order pertaining to workman Nagaram are quashed. The respondents are restrained from making any recovery from the members of the petitioner union whose names are given in schedule “A” against the amount said to be paid in excess on grant of one increment. The increment already granted shall also not be withdrawn without affording an opportunity of hearing to the members of the petitioner union whose names are given in schedule “A” appended with the writ petition.

(GOVIND MATHUR),J.

kkm/ps.